

# State of Colorado



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## **Federal Communications Commission**

### **REQUEST FOR WAIVER OF COMMISSION RULES**

#### **I. INTRODUCTION**

The State of Colorado hereby respectfully requests that the Federal Communications Commission (“Commission” or “FCC”) grant a waiver of the prohibition on new operations to permit deployment of State of Colorado’s already-planned and deployed system. The Commission has prohibited “authorization . . . of any new narrowband operations in Channels 63 and 68, or in the upper 1 megahertz of channels 64 and 69,” after August 30, 2007. A recent public notice further states that narrowband equipment may be placed into operation after August 30, 2007, but only in the new consolidated narrowband block. Thus, State of Colorado respectfully requests that the Commission grant a waiver of the prohibition to permit deployment of new equipment, including handsets and base stations, after August 30, 2007 to operate in conjunction with State of Colorado’s already-licensed 700/800 MHz system. Without such a waiver, the Commission’s policy poses a significant threat to State of Colorado’s plans to complete implementation of a needed lifesaving public safety communication system in its jurisdiction

#### **II. BACKGROUND**

The Colorado Statewide Digital Trunked Radio (DTR) 700/800 MHz System is a dynamic and ongoing communications project envisioned in the early 1990's and begun in 1998 to replace multiple disparate wireless communications systems operated by State and local government agencies. DTR is being planned and constructed through partnerships with local and federal governments and is available to all local governments that choose to participate in this new innovative technology.

DTR provides a seamless statewide wireless system that enables direct communications between public safety agencies that absolutely must communicate during times of emergency. DTR supports wireless voice and data communications on a single integrated system based upon the Project 25 suite of open standards. The main deliverables of DTR are improved communications for all participation agencies with significant improvement in interoperability between agencies. The DTR system meets the highest level of interoperability for Technology on the Safecom Interoperability Continuum.

Infrastructure currently consists of 141 DTR radio sites operating on three Zone Controllers with an additional 25 funded sites under construction across the State to provide additional coverage. When the infrastructure is completed, the system will provide approximately 95%+ geographic coverage of the State. The system utilizes frequencies in both the 700 MHz. and 800 MHz. Bands. Thirteen of the 141 DTR sites (124 channels) are 700 Mhz with additional 700 Mhz sites being planned or under construction. There are over 600 State, local, federal and tribal agencies consisting of over 27,000 subscriber radios using DTR. Approximately 17,000 subscriber units are 700 MHz capable. The system handled over 53 million calls and over 92,000 hours of talk time in 2006. Since 1998 the DTR system has continued to grow as new radios and sites are deployed on an ongoing basis. 700 MHz equipment is an integral part of the DTR system.

The State of Colorado recognizes that, pursuant to the Order, this new equipment will not be eligible for relocation funding. State of Colorado disagrees with this policy against relocation funding, but notes that this Request for Waiver does not address reimbursement issues. Thus, State of Colorado seeks this waiver request without prejudice to any future motions opposing the policy

for relocation funding. Currently the State of Colorado DTR System uses spectrum under call sign **WPTZ761**. Under this call sign the State of Colorado is authorized frequencies 764-776/794-806 MHz. Because of the complicated nature of this process, State of Colorado started planning in the early 1990's. State of Colorado received an initial budget of \$ 3.2 million in 1998 and sought various funding streams totaling over \$84 million to continue the system build out to this day. Additional \$14.2 million has been requested from the State legislature for the next fiscal year. With additional various grant funds, the total expenditure will continue to grow beyond \$100 million in the next year or two. The DTR System must continue its dynamic deployment to provide critical interoperable communications to the 27,000+ public safety responders who protect the safety and lives of the public in the State of Colorado.

### **III. THE COMMISSION SHOULD GRANT STATE OF COLORADO A WAIVER OF THE COMMISSION'S RULE PROHIBITING NEW EQUIPMENT.**

Under Section 1.3 of the Commission's rules, the Commission may exercise its discretion to waive a rule for "good cause shown." A waiver is appropriate if special circumstances warrant a deviation from the general rule and such deviation will help serve the public interest.

The waiver process allows the Commission to "maintain the fundamentals of principled regulation without sacrifice of administrative flexibility and feasibility." In deciding whether or not to grant specific waiver requests, the Commission has indicated it must "take into account considerations of hardship, equity, or more effective implementation of overall policy" in its broader quest for regulation in the "public interest." As explained below, grant of State of Colorado's request would serve policy objectives of the Commission, particularly the deployment of spectrum to meet public safety needs

State of Colorado will undergo significant hardship if the FCC does not waive the new rule to permit State of Colorado to continue to deploy its equipment as planned. As noted above, State of Colorado has invested significant time and money in planning and deploying the DTR System.

Since this is a dynamic statewide system that continues to expand weekly, it is unreasonable to stop deploying by the August 30, 2007 deadline.

#### **IV. CONCLUSION**

State of Colorado respectfully requests that the Commission grant a waiver of the prohibition on deploying new equipment to permit State of Colorado to deploy new equipment for existing operations outside of the consolidated narrowband blocks. State of Colorado's circumstances warrant a deviation from this rule and such deviation will help serve the public interest.

Sincerely,



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